

March 15, 2004

Anthony Clemente  
Vice-President  
PBSJ  
2001 N.W. 107<sup>th</sup> Avenue  
Miami, FL 33172

**RE: REQUEST FOR ADVISORY OPINION 04-27**

Dear Mr. Clemente:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on March 10, 2004 and rendered its opinion based on the facts stated in your letter.

You requested an opinion regarding any potential conflicts of interest related to serving as Program Management Consultant for the People's Transportation Plan.

Miami-Dade County recently issued a Notice to Professional Consultants for a Program Management Consultant for the People's Transportation Plan. The Program Management Consultant(PMC) will hold a non-exclusive seven-year contract with Miami-Dade County to manage, with the support and supervision of Transit and Public Works staff, the various phases of implementing the People's Transportation Plan. Specifically, the Scope of Services requires the PMC to be responsible for short and long-range transit planning, facilities planning, feasibility

studies, oversight of construction, engineering and inspection consultants and design criteria and standards. Transit will hire additional firms to do the actual design and construction inspection work but they will work under the direction of the Program Management Consultant team. As noted in the NTPC and our review of this matter, it is the intention of the County that the Program Management Consultant act as county staff in the areas for which the Consultant will provide staff and technical assistance. The contract should be awarded in the summer of 2004.

The People's Transportation Plan consists of several projects including highway and road improvements, bus service improvements and neighborhood improvements. The heart of the project is several rapid transit improvements including:

- Ø The North Corridor- The North Corridor will run from the Dr. Martin Luther King Jr. Metrorail Station (N.W. 27<sup>th</sup> Avenue and 62<sup>nd</sup> Street) along N.W. 27<sup>th</sup> Avenue to 215<sup>th</sup> Street.
- Ø The East West-Corridor- The East-West Corridor consists of two segments from the Florida Turnpike east to the Palmetto Expressway and from the Palmetto through Miami International Airport and Downtown Miami and to the Port of Miami-Dade
- Ø Baylink- A corridor between downtown Miami and Miami Beach
- Ø Kendall Corridor- A corridor with east-west and north-south elements

Preliminary studies and design work has already been conducted on these corridors. As noted in more detail below, the four requestors have taken part in these studies on behalf of one or more of the funding agencies including the Metropolitan Planning Organization, the Florida Department of Transportation and the Miami-Dade Expressway

Authority. In cases where responsibilities may overlap, Transit Department officials have stated that management responsibilities will be limited to department staff and not Program Management Consultant staff.

Pursuant to Section 2-11.1(w), the Ethics Commission has jurisdiction over contractors and vendors. Section 2-11.1(j) restricts persons covered by the Conflict of Interest and Code of Ethics ordinance from doing work that conflicts with their independence of judgment in performing their County responsibilities. Pursuant to that section of the Conflict of Interest and Code of Ethics ordinance, the Ethics Commission has delineated certain areas including overlapping responsibilities that would impair a contractor's independent judgment in the performance of its duties for the County. The analysis of potential conflicts, in this case, is generally limited to the requestor's contracts with Miami-Dade Transit and does not analyze potential conflicts with contracts with other agencies.

The Ethics Commission found that PBSJ may serve as Program Management Consultant subject to the limitations contained herein. PBSJ has previously provided architectural and engineering services on a number of contracts related to the People's Transportation Plan. The Ethics Commission reviewed each agreement individually.

- PBSJ is currently serving as a subcontractor to Pistorino and Alam in providing construction engineering and inspection services for the South Dade Busway extension from Cutler Ridge to Florida City.

The South Dade Busway extension should be completed prior to commencement of the Program Management Consultant agreement and should not constitute a conflict. The firm may not provide personnel to provide

construction engineering and inspection services on any People's Transportation Plan project while serving as the Program Management Consultant.

- PBSJ is part of Dade Transportation Consultants. Dade Transportation Consultants serves as General Engineering Consultant to the Miami-Dade Expressway Authority. As Managing Partner of Dade Transportation Consultants, PBSJ is involved in all aspects of program management, work program development and project implementation.

Although some Miami-Dade Expressway Authority projects will overlap with the People's Transportation Plan, any potential conflicts are outside of the scope of this opinion.

- PBSJ also served as a subcontractor to Parsons Brinckerhoff on the East-West Multi-Modal Corridor Study for the Florida Department of Transportation. PBSJ developed and evaluated transit alignment alternatives and developed highway improvement concepts.

This project has been completed and should not constitute a conflict.

Therefore, PBSJ may serve as Program Management Consultant for the People's Transportation Plan subject to the limitations contained herein.

This opinion construes the Miami-Dade Conflict of Interest and Code of Ethics ordinance only and is not applicable to any conflict under state law. Please contact the State of Florida Commission on Ethics if you have any questions regarding possible conflicts under state law.

If you have any questions regarding this opinion, please call the undersigned at (305) 579-2594 or Ardyth Walker, Staff General Counsel at (305) 350-0616.

Sincerely Yours,

ROBERT MEYERS  
Executive Director

Cc: Luisa Millan Donovan, CICC